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22 [Additional Counsel not listed]

23 UNITED STATES DISTRICT COURT
24 FOR THE NORTHERN DISTRICT OF CALIFORNIA
25 SAN FRANCISCO DIVISION

26 AMERICAN FEDERATION OF
27 GOVERNMENT EMPLOYEES, AFL-CIO, et
28 al.,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity
as President of the United States, et al.,

Defendants.

Case No. 3:25-cv-03698-SI

DECLARATION OF MARK BAILEY

DECLARATION OF MARK BAILEY

I, Mark Bailey, declare as follows:

1. I am over 18 years of age and competent to give this declaration. This declaration is based on my personal knowledge, information, and belief.

2. I am the Deputy Director of Federal Division of the National Association of Government Employees, SEIU Local 5000 (“NAGE” or the “Union”). NAGE, a national labor organization, is incorporated in the state of Delaware. NAGE is also an affiliate of the Service Employees International Union, AFL-CIO. NAGE’s national headquarters is located at 159 Thomas Burgin Parkway, Quincy, Massachusetts, 02169. I have served as Deputy Federal Director since September, 2017; prior to that, I served as a local officer with NAGE (starting in 1979) and in other Union staff roles (starting in 1996).

3. In addition to its many thousands of state, municipal, and private sector bargaining unit employees, NAGE represents approximately 75,000 federal sector bargaining unit employees. NAGE represents non-professional and professional bargaining units in agencies including but not limited to the Department of Defense, the Department of Veterans Affairs, the Environmental Protection Agency, and the Department of Transportation.

4. NAGE represents approximately 40,000 bargaining unit employees working at Department of Defense (DoD) agencies, including but not limited to the Army and Air Force Exchange Services, the Defense Commissary Agency, the Navy Exchange, the Defense Intelligence Agency, and service branches, including the Army, Air Force, Marine Corps, Navy, and National Guard.

5. NAGE represents approximately 22,000 employees working at the Department of Veterans Affairs (VA). NAGE members serve veterans in a variety of capacities, including as physicians, nursing staff, pharmacists, technicians, medical support assistants, counselors, therapists, administrative staff, food service workers, groundskeepers, janitorial staff, cemetery workers, and many other roles.

6. NAGE represents approximately 400 employees working at the Environmental Protection Agency in various positions.

1 7. NAGE represents approximately 800 employees working at the Federal Aviation
2 Administration and the U.S. Volpe National Transportation Center, which are part of the
3 Department of Transportation, in various positions, including flight data specialists, engineers,
4 scientists, community planners, and others.

5 8. Specifically, in California, I estimate that NAGE represents approximately 8,000
6 federal bargaining unit employees working for the VA and DoD agencies. In the Northern District
7 of California, NAGE represents approximately 350 Army and Navy civilian bargaining unit
8 employees, who are based at multiple locations, including Monterey, Moffett Field, Camp Parks,
9 Fort Hunter Liggett, and Parks Reserve Forces Training Area. These bargaining unit employees
10 hold various positions in various fields, including public works, facilities management,
11 administration, accounting, budget analysis, logistics management, and many others.

12 9. NAGE's mission is to advocate for and promote the interests of bargaining unit
13 members in their federal employment. As the exclusive bargaining representative of these
14 workers, the Union provides many services to all bargaining unit members. Core functions of the
15 Union include collective bargaining with the agency to obtain a fair and reasonable collective
16 bargaining agreement ("CBA"); filing and negotiating grievances to enforce the terms and
17 conditions of the CBA; pursuing arbitrations on behalf of workers to enforce the CBA; and
18 providing other support, guidance, and resources to bargaining unit employees.

19 10. The Union first became aware of President Trump's plan to conduct "large-scale"
20 RIFs through the Feb. 11, 2025 Executive Order. No one from the agencies where the Union
21 represents employees had said anything about large-scale RIFs to the Union prior to that Order.

22 11. The Union has not received any notices of the content of agency AARPs or
23 information about potential RIFs from any of the Defendant agencies.

24 12. Although the Department of Veterans Affairs has not made public or informed the
25 Union of the content of the ARRP or yet sent notices of any RIF, on March 5, the Associated Press
26 obtained a memo¹ which suggests that the Department of Veterans Affairs plans to cut 83,000 jobs

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28 ¹ Department of Veterans Affairs, *Memorandum re: Department of Veterans Affairs Agency Reduction in*

1 in a restructuring plan, which represents a workforce reduction of 17%.² The reorganization is
2 expected to be implemented this August.³

3 13. On April 4, the VA Secretary Doug Collins directly sent bargaining unit employees
4 an email about the VA's deferred resignation program (DRP) that included references to the VA's
5 Agency Reduction in Force and Reorganization Plan (AARP): "...AARP will also lead to
6 reductions in force (RIF), a decrease of up to 15% from the roughly 470,000 full-time equivalent
7 employees we currently have, to roughly 398,000 employees." A true and correct copy of that
8 email is attached hereto as Exhibit A and incorporated herein by this reference.

9 14. On April 7, the Union sent Secretary Collins a request for a briefing regarding the
10 AARP.

11 15. On April 7, the Union received an automated email response from Secretary
12 Collins, acknowledging receipt of the Union's request.

13 16. On April 8, Supervisor Jennifer Lee-Davis sent a direct email to medical support
14 employees, stating in part: "There has been a significant amount of information circulating
15 recently, some of which has been accurate while other details may not be. Initially, I was informed
16 that AMSAs were included on the list of exempt employees. It is my understanding that AMSAs
17 are exempt under the Deferred Resignation Plan, although you are still welcome to apply.
18 However, AMSAs are not categorized as exempt in relation to the Reduction in Force." This
19 referred to the position of Advanced Medical Support Assistant (AMSA), which, along with over
20 130 other classifications, had previously been deemed ineligible or exempt by the VA from
21 participating in the deferred resignation program because they were deemed critical to continuing
22

23 *Force (RIF) and Reorganization Plan (AARP)*. (March 4, 2025). Available at:

24 <https://www.afge.org/globalassets/documents/generalreports/2025/va-memo-3-4-25.pdf>.

25 ² Jamie Rowan, *5 Reasons Federal Cuts Are Hitting Veterans Especially Hard*, PBS (March 16, 2025),
26 available at: <https://www.pbs.org/newshour/politics/5-reasons-federal-cuts-are-hitting-veterans-especially-hard#:~:text=The%20Department%20of%20Veterans%20Affairs,Press%20on%20March%205%2C%202025>. Note that while this plan has been widely discussed online, the VA press secretary claimed the document leaked by the AP was false, but did not dispute that there would be staff cuts.

27 ³ Steven Groves, *Trump Administration Plans to Cut 80,000 Employees from Veterans Affairs, According to Internal Memo*, available at: <https://apnews.com/article/veterans-affairs-cuts-doge-musk-trump-f587a6bc3db6a460e9c357592e165712>. Assoc. Press (March 5, 2025).
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1 VA healthcare and services. The clarification that classifications could be considered too critical
2 for employees to choose deferred resignation, but not critical enough to be exempted from RIF
3 plans, created a lot of stress, confusion, and uncertainty among Union members. A true and
4 correct copy of Ms. Lee-Davis's communication is attached hereto as Exhibit B and incorporated
5 herein by this reference.

6 17. To date, the Union has received no substantive response to its request for a briefing
7 on the VA's AARP, and has not otherwise received any information about the RIF/planned
8 reorganization.

9 18. On April 8, Executive Director of the VA's Office of Labor Management Relations
10 Denise Biaggi-Ayers sent me an email that was encrypted and impossible to open. My
11 understanding is that the VA has put filters on outgoing communications to the Union, which
12 encrypt all messages and effectively prevent members from emailing the Union from their work e-
13 mail accounts. I responded immediately to inform Ms. Biaggi-Ayers that I was unable to open her
14 email. I reiterated that encrypting outgoing VA e-mail messages and effectively blocking
15 communications to NAGE officials was a violation of our national CBA. A true and correct copy
16 of this email exchange is attached hereto as Exhibit C and incorporated herein by this reference.

17 19. As a result of the planned reorganization and RIFs outlined in the news and
18 referenced in Secretary Collins's April 4 email to employees, the VA will not be able to continue
19 providing the high quality of medical care that veterans depend on. All positions at the VA play
20 significant roles in the delivery of quality healthcare and other services for veterans. Cuts to
21 medical and healthcare support staff, IT support, and clerical and data entry positions make it
22 significantly more difficult for VA health care providers to do their jobs and for veterans to make
23 medical appointments and be connected with services. The RIFs will exacerbate staffing shortages
24 that already exist at many VA facilities and make it harder for veterans to access health care,
25 including mental health care, and other veterans' services including crisis support. Cuts to research
26 staff will also disrupt important work that benefits veterans and the public generally. The Union
27 and our members were already concerned about the impacts of the deferred resignation plan and
28 probationary employee terminations on the availability of VA services, and further reductions will

1 stress understaffed hospitals and other services to the breaking point. In addition to endangering
2 the availability and quality of veterans' healthcare and social services, reductions in staff threaten
3 the VA's ability to maintain its reputation for immaculate cemeteries that honor veterans who have
4 passed, which depends on the VA employing sufficient numbers of cemetery workers and
5 groundskeepers.

6 20. As a result of the planned reorganization and RIFs, workers who remain at the VA
7 will face increased workload, stress, and low morale, as well as an increased likelihood of unsafe
8 or dangerous working conditions. VA employees are concerned about changes to their job
9 duties—will nurses be required to start cleaning patient rooms?—and their ability to continue
10 doing their jobs safely after a 15% RIF. Understaffing in hospitals increases injuries for both
11 healthcare workers and patients. Many VA employees have specialized skills or knowledge that
12 cannot be reassigned to other employees. In addition to positions that require medical training and
13 licensure, other positions like boilermakers and plumbers are essential for VA medical centers to
14 continue operating. VA facilities are often located in older buildings that require significant
15 maintenance in order to continue functioning and to prevent dangerous conditions, such as boilers
16 exploding.

17 21. About one-third of all federal civilian employees are veterans. I estimate that about
18 60% of NAGE's members at the VA are veterans or have veterans in their families—they work for
19 the VA because they are committed to its mission. For veteran union members with a history of
20 PTSD, the heightened anxiety and uncertainty at work caused by the planned reorganization is
21 particularly difficult. And at the very moment when veterans employed in the federal civil service
22 need mental health services, those services are becoming more difficult to procure.

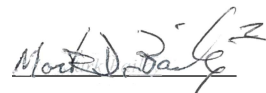
23 22. The planned reorganization and RIFs are having an immediate adverse effect on the
24 Union's ability to provide core services to unit members and to accomplish its mission. Workload
25 and daily stress levels have increased exponentially for union staff. The Union has had no choice
26 but to shift its focus from day-to-day workplace issues and grievances to responding to questions
27 about agency reorganizations from federal employees. Thousands of federal employees are trying
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1 to get their questions answered, and they are angry, scared, and confused about the lack of
2 information from agencies and the uncertainty in their workplaces.

3 23. I have worked with federal government employees for about forty years, and have
4 never experienced anything like this. Previously, if the VA was considering reorganization, each
5 VA medical facility had its own discretion and we engaged in a slow and deliberative process,
6 where the agency would work with the union to problem solve together. Typically, the VA has
7 favored hiring freezes and eliminating positions through attrition, which allows facilities to get a
8 feel for operating without a particular position and assess the impact on services. The current
9 situation is totally different—the agency has not communicated anything to the Union about the
10 planned reorganization or the substantive issues prompting RIFs, and has been unwilling to
11 engage in consultation about the RIF process.

12 24. The Union's staff and activities are funded through members' voluntary dues. If
13 the Union no longer receives dues from members who are laid off or who otherwise leave
14 employment and whose positions are not replaced, that will make it significantly more difficult for
15 the Union to continue to function and to provide the services and protection to bargaining units
16 identified here.

17 I declare under penalty of perjury under the laws of the United States that the foregoing is
18 true and correct. Executed May 1, 2025, in Coatesville, Pennsylvania.

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21 MARK BAILEY
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Exhibit A



From: US Department of Veterans Affairs <US.VA@va.gov>

Sent: Friday, April 4, 2025 4:41 PM

To: VA All Mailboxes <VAAll.Mailboxes@va.gov>

Subject: MESSAGE FROM THE SECRETARY

MESSAGE FROM THE SECRETARY

Deferred Resignation Program Offer

Fellow VA Employees,

As you know, we are working to reform the Department of Veterans Affairs (VA), so it works better for the Veterans, families, caregivers, and survivors we are charged with serving. To that end, we are conducting a thorough review of the department's structure and staffing – known as VA's Agency Reduction in Force and Reorganization Plan (ARRP).

The objective of the ARRP is to increase productivity and efficiency, eliminate waste and bureaucracy, and improve health care and benefits to Veterans without cutting health care or benefits for Veterans. ARRP will ensure VA becomes a leaner, more efficient and effective organization, with improved Veteran-facing care and customer service and less red tape. But ARRP will also lead to reductions in force (RIF), a decrease of up to 15% from the roughly 470,000 full-time equivalent employees we currently have, to roughly 398,000 employees.

We do not take these actions lightly, but VA's sole purpose is to serve Veterans, families, caregivers, and survivors. ARRP will result in better customer service and convenience for everyone the department exists to serve.

Accordingly, I am writing to let you know that VA will be offering certain employees another opportunity to take advantage of the deferred resignation program (DRP). The opt-in period will be from April 7 to April 30, 2025. If you accept the deferred resignation offer, you will receive full pay and benefits through September 30, 2025, and will not be subject to a RIF or other premature separation. You can learn more about the offer [here](#).

Additionally, VA is offering Voluntary Early Retirement Authority (VERA) until September 30, 2025. Program details will be published shortly, and any employee approved for VERA must retire no later than September 30, 2025.

The ability to accept this DRP offer or take advantage of VERA is subject to certain exemptions VA has put in place to maintain full continuity of all mission-critical operations and ensure health care and benefits for all VA beneficiaries continue without interruption. For a list of positions exempt from the DRP and VERA, see [here](#).

I encourage you to carefully consider whether DRP is right for you. For information about how to apply for the DRP, please see [here](#).

Should you elect to not take the DRP, VA cannot provide assurance regarding the certainty of your position moving forward. What we can say, however, is that if you are separated through a RIF, you will be afforded all of the protections and benefits to which you are entitled under the law.

Regardless of what you choose, we thank you for your service to Veterans and to the United States of America.

Doug Collins

Exhibit B

Please know that your efforts are truly appreciated, and I am available if you have any concerns or

would like to discuss anything further.

Sincerely,

Jennifer Lee-Davis
Supervisory MSA
Topeka VA
Building 2, A207-2
785-350-3111 ext 54560

Exhibit C

From: [Mark Bailey](#)
To: [Biaggi-Ayer, Denise](#)
Cc: [Martin, Kurt P.](#); [Burnham, Anne E. \(WMC\)](#); [Hickok, Brandon \(WMC\)](#); [Lee Blackmon](#); [Sarah Suszczyk](#); [Susan Musa](#); [MacEachern, Peter](#); [Moore, Claudia](#); [Andrews, Ginger L.](#); [Rose, Jacquelyn M.](#); [Jacqueline Williams](#); [Ford, Brittany L.](#); [Golder, Nicole](#); [Pina, Danielle V.](#); [Owens, William G.](#); [Knecht, Shannon L.](#); [Bailey, Mark](#)
Subject: [EXTERNAL] RE: DVA Agency Reduction In Force and Reorganization Plan (ARRP) / Deferred Resignation Program (DRP)
Date: Tuesday, April 8, 2025 1:20:32 PM

Denise,

Sorry, the Department Officials e-mails are coming to me as a protected or secured message, and I am unable to open protected or secured e-mail messages.

I have informed you all regarding the problem NAGE Officials from outside the Department are having with communicating with our Local Leaders and Members by e-mail and the problem they are having communicating with us as their e-mails to NAGE Officials are automatically converted to secured or private e-mail messages and OI&T is doing nothing to address or correct this issue, and this is becoming a big communication issue, and management should be aware that these actions violates the terms of Article 5, of the Master Agreement, as it relates to NAGE National being able to communicate with our Local Leaders and Members.

Please resend your e-mail without the secured or protected optics attached and know that all timeframes regarding this subject matter must be stayed until such time NAGE National Representatives can received and read your e-mail response/message.

Sincerely,
 MDB

Sincerely,
 MDB

From: Biaggi-Ayer, Denise <Denise.Biaggi-Ayer@va.gov>
Sent: Tuesday, April 8, 2025 11:53 AM
To: Mark Bailey <[REDACTED]>
Cc: Martin, Kurt P. <[REDACTED]>; Burnham, Anne E. (WMC) <[REDACTED]>; Hickok, Brandon (WMC) <[REDACTED]>; Lee Blackmon <[REDACTED]>; Sarah Suszczyk <[REDACTED]>; Susan Musa <[REDACTED]>; Mark Bailey <[REDACTED]>; MacEachern, Peter <[REDACTED]>
Subject: RE: DVA Agency Reduction In Force and Reorganization Plan (ARRP) / Deferred Resignation Program (DRP)

Biaggi-Ayer, Denise (Denise.Biaggi-Ayer@va.gov) has sent you a protected message.



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Microsoft Corporation, One Microsoft Way, Redmond, WA 98052